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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,733	03/04/2002	Benjamin G. Cruz	CRUZ-0001	2199
26381	7590	07/28/2008		
IP Authority, LLC Ramraj Soundararajan 4821A Eisenhower Ave Alexandria, VA 22304			EXAMINER MEINECKE DIAZ, SUSANNA M	
			ART UNIT 3692	PAPER NUMBER
			NOTIFICATION DATE 07/28/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/086,733	Applicant(s) CRUZ, BENJAMIN G.	
	Examiner Susanna M. Diaz	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 4, 2008 has been entered.

Claims 31-52 are presented for examination.

Response to Arguments

2. Applicant's arguments with respect to claims 31-51 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claim 39 is objected to because of the following informalities:

Claim 39, next to last line, delete "identified", insert –identified--

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 34 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 34 recites the limitation "the user computer" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 42 recites the limitation "said user computer" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 42 recites the limitation "the user computer" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 34 and 42, it is also unclear whether it is the computer system or actually a user's personal computer that performs the analysis and sorting of consumer demand data. It is not understood how a user's personal computer would analyze and sort all of the individual voting results, for example. For examination purposes, it will be assumed that the computer system performs the analysis and sorting while the formatted analyzed and sorted individual information is displayed on a user's personal computer.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 31-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ash's online tour voting, as disclosed in "Arc Swings the Vote" (October 24, 2000), "Big Name Act Makes a Welcome Return to Falmouths Pirate" (November 23, 2000), and "On-line Vote has Ash in Limelight" (Coleman, October 19, 2000), in view of Ruvolo et al. (U.S. Patent No. 6,978,246), and further in view of Official Notice.

Ash discloses a system for collecting expressions of individual consumer demand for attending entertainment events and making the data available to users to support user decisions regarding geographic placement of entertainment events, said system comprising:

[Claim 39] an electronic network for receiving consumer demand data from individual consumers comprising requests indicating an individual consumer's desire to attend one or more specifically identified entertainment events ("Arc Swings the Vote": Fans vote to select tour venues for the band Ash; "Big Name Act Makes a Welcome Return to Falmouths Pirate": ¶¶ 1-2 – Voting is performed for the Ash UK tour; "On-line Vote has Ash in Limelight": ¶¶ 1, 3 – A Belfast venue is selected through online voting);

a computer database for housing collected individual consumer requests for entertainment events ("Arc Swings the Vote": Fans vote to select tour venues for the band Ash. Voting is performed through various websites using voting forms on the websites, thereby implying that the results are gathered via the web. In order to collect data via the web, especially through a specific voting form, the data must be stored at

least temporarily as part of the data gathering processing. Any storage device that at the very least temporarily stores the voting information is a computer database);

a computer system, coupled to the computer database and the electronic network, for generating entertainment event demand data compiled by aggregating individual consumer demand requests; and said computer system transmitting entertainment event demand data from the computer database, wherein said transmitted entertainment event demand data is used to determine at least one geographic locale for presentation of an entertainment event based on a relative number of requests received from consumers desirous to attend a specifically identified entertainment event ("Arc Swings the Vote": Fans vote to select tour venues for the band Ash. The venues with the most votes are selected. Voting is performed through various websites using voting forms on the websites, thereby implying that the results are gathered via the web. In order to collect data via the web, especially through a specific voting form, the data must be stored at least temporarily as part of the data gathering processing. Any storage device that at the very least temporarily stores the voting information is a computer database; "Big Name Act Makes a Welcome Return to Falmouths Pirate": ¶¶ 1-2 – Voting is performed for the Ash UK tour; "On-line Vote has Ash in Limelight": ¶¶ 1, 3 – A Belfast venue is selected through online voting);

[Claim 40] wherein said computer system receives locale designations from consumers comprising zip codes or metropolitan area designations ("Big Name Act Makes a Welcome Return to Falmouths Pirate": ¶¶ 1-2 – Voting is performed for the

Ash UK tour; "On-line Vote has Ash in Limelight": ¶¶ 1, 3 – A Belfast venue is selected through online voting);

[Claim 41] wherein said computer system transmits consumer demand data indicating consumer desired general locale for an entertainment event so as to support user decisions regarding geographic locales for placement of entertainment events ("Arc Swings the Vote": Fans vote to select tour venues for the band Ash. The venues with the most votes are selected. Voting is performed through various websites using voting forms on the websites, thereby implying that the results are gathered via the web; "Big Name Act Makes a Welcome Return to Falmouths Pirate": ¶¶ 1-2 – Voting is performed for the Ash UK tour; "On-line Vote has Ash in Limelight": ¶¶ 1, 3 – A Belfast venue is selected through online voting).

Regarding claims 39 and 40, Ash does not explicitly disclose that venues are voted on in the consumer's general locale (claim 39) or wherein said locale designations are used to identify locales associated with individual consumers' expressed desire to attend said entertainment events (claim 40); however, Ash targets its fan base fan for the voting process. Ash also announced the selected tour dates and venues via the voting websites ("Big Name Act Makes a Welcome Return to Falmouths Pirate": ¶ 2). The Ash vote was also advertised by local radio stations ("Arc Swings the Vote"; "On-line Vote Has Ash in Limelight": ¶ 3). Official Notice is taken that it was old and well-known in the art of entertainment promotions at the time of Applicant's invention to select entertainment venues that will attract a larger fan base. This practice increases

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the likelihood of selling more tickets to the entertainment event, thereby making it more profitable. Ruvolo discloses an event matching system that schedules an event when two or more participants identify an event of interest at a specific day, time and location that the participants can physically attend (col. 5, lines 16-42; col. 6, line 48 through col. 7, lines 3), thereby implying that the computerized system of Ruvolo ultimately identifies venues at which to set an event based on the demand for an acceptable specified venue by at least two participants. Since the participants must presumably be able to attend the event at the specified venue, date and time, it is understood that venues are being selected within each participants' (i.e., "consumer's") general locale. Since the Ash tour promoters likely desire to sell as many tickets as possible to Ash's concerts and the tour voting was advertised via radios in the UK for a tour that would take place at selected venues within the UK, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to target consumers to vote for venues that are in the consumer's general locale (claim 39) and wherein said locale designations are used to identify locales associated with individual consumers' expressed desire to attend said entertainment events (claim 40) in order to have a greater fan base to target for ticket sales once the venues are chosen (as specifically addressed by Ruvolo and is also a common event promotion strategy, as discussed above).

Regarding claim 42, Ash does not explicitly disclose that said user computer further comprises means for analyzing and sorting individual consumer data and formatting analyzed and sorted individual consumer data for display on the user

computer. Ash, however, did announce the final tour details including confirmed venues via the voting websites ("Big Name Act Makes a Welcome Return to Falmouths Pirate": ¶ 2). Ruvolo performs event scheduling once enough demand for an event from at least two participants is established and notification of scheduled events are sent to the event participants (col. 5, lines 16-42; col. 6, line 48 through col. 7, lines 3). Ruvolo's event matching is performed using iCalendar and the invention may be implemented using various electronic communication networks, which implies that successful event matching is communicated via the iCalendar interface (columns 3-4; col. 7, lines 35-45). Ruvolo's matching system is more time efficient (col. 2, lines 37-43) compared to prior art event matching systems. Ash's tour voting effectively matches the tour venues to areas of interest to fans and a web interface is utilized to perform the voting process and distribute voting results; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Ash such that said user computer further comprises means for analyzing and sorting individual consumer data and formatting analyzed and sorted individual consumer data for display on the user computer in order to more efficiently process voting results and advertise the tour dates with selected venues to fans that are more likely to be interested in attending Ash's concerts, thereby encouraging ticket sales.

As per claim 43, since Ash announced the selected tour dates and venues via the voting websites ("Big Name Act Makes a Welcome Return to Falmouths Pirate": ¶ 2), Ash utilized means for storing, in the computer database, details of scheduled entertainment events (since web site programming must store information to be

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displayed). Ash does not explicitly disclose means for matching scheduled events to the entertainment requests and locale designations of individual consumers and means for sending messages over the electronic network to individual consumers advising them that an entertainment event requested by a corresponding consumer has been scheduled. However, Ruvolo performs event scheduling once enough demand for an event from at least two participants is established and notification of scheduled events are sent to the event participants (col. 5, lines 16-42; col. 6, line 48 through col. 7, lines 3). Ruvolo's event matching is performed using iCalendar and the invention may be implemented using various electronic communication networks, which implies that successful event matching is communicated via the iCalendar interface (columns 3-4; col. 7, lines 35-45). Ruvolo's matching system is more time efficient (col. 2, lines 37-43) compared to prior art event matching systems. Ash's tour voting effectively matches the tour venues to areas of interest to fans and a web interface is utilized to perform the voting process and distribute voting results; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Ash to include means for matching scheduled events to the entertainment requests and locale designations of individual consumers and means for sending messages over the electronic network to individual consumers advising them that an entertainment event requested by a corresponding consumer has been scheduled in order to more efficiently process voting results and advertise the tour dates with selected venues to fans that are more likely to be interested in attending Ash's concerts, thereby encouraging ticket sales.

Regarding claim 44, Ash discloses that said consumer requests are received via an electronic form presented to an individual consumer by the consumer's activation of at least one of a hyperlink and/or menu selection, said electronic form incorporated into a plurality of web sites ("Arc Swings the Vote": Fans vote to select tour venues for the band Ash. Voting is performed through various websites using voting forms on the websites, thereby implying that the results are gathered via the web), yet Ash does not explicitly disclose that the electronic form is incorporated into a plurality of media players. Official Notice is taken that it was old and well-known in the art of Internet forms at the time of Applicant's invention to make forms available in various media player formats. This allows web users to more conveniently access the web forms on a particular website with whatever media player each web user possesses and/or is more familiar with using. Ash encouraged its fans to vote for tour venues; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Ash such that the electronic form is incorporated into a plurality of media players in order to allow web users to more conveniently access the web forms on a particular website with whatever media player each web user possesses and/or is more familiar with using.

Regarding claim 45, Ash does not explicitly disclose that said media players comprise digital media devices connected to wireless networks. Official Notice is taken that it was old and well-known in the art of Internet forms at the time of Applicant's invention to make forms available in various media player formats. This allows web users to more conveniently access the web forms on a particular website with whatever

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media player each web user possesses and/or is more familiar with using. Ash encouraged its fans to vote for tour venues; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Ash such that the electronic form is incorporated into a plurality of media players in order to allow web users to more conveniently access the web forms on a particular website with whatever media player each web user possesses and/or is more familiar with using. Furthermore, Ruvolo discloses implementation of its event matching capabilities using a cellular network (col. 8, line 45). Official Notice is taken that it was old and well-known in the art of cellular communications to utilize a cell phone as a digital media device connected to wireless networks. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to further modify Ash such that said media players comprise digital media devices connected to wireless networks in order to conveniently provide fans with another communication device over which to cast their votes.

Regarding claim 46, Ash does not explicitly disclose that said media players comprise voice-enabled information input and access devices; however, Official Notice is taken that it was old and well-known in the art of communications at the time of Applicant's invention to utilize voice-enabled information input and access devices to participate in a voting process. Voice-enabled devices are often more convenient for certain users, such as for those who are blind or who are engaging in another activity (such as driving) that otherwise requires the user to use his/her hands. Using similar rationale from claims 44 and 45 above, the Examiner submits that it would have been

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obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Ash such that said media players comprise voice-enabled information input and access devices in order to conveniently provide fans who are blind or who are engaging in another activity (such as driving) that otherwise requires the user to use his/her hands with a means of participating in the voting process.

[Claims 31-38] Claims 31-38 recite limitations already addressed by the rejection of claims 39-46 above; therefore, the same rejection applies.

[Claims 47-52] Claims 47-52 recite limitations already addressed by the rejection of claims 39-46 above; therefore, the same rejection applies.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna M. Diaz/
Primary Examiner, Art Unit 3692